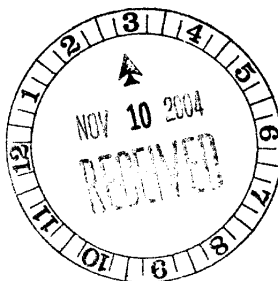


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November 10, 2004

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

NOV 10 2004

Part of
Public Record

Re: Docket No. 38302S, *United States Department of Energy and United States Department of Defense v. Baltimore & Ohio Railroad Company, et al.*; Docket No. 38376S, *United States Department of Energy and United States Department of Defense v. Aberdeen & Rockfish Railroad Co., et al.*

Dear Secretary Williams:

Enclosed for filing in the above-captioned matter are the original and ten copies of the Motion of CSX Transportation, Inc. for Extension of Time to Submit Comments on the Proposed Settlement Agreement.

An additional copy of this filing is also enclosed. Please indicate receipt and filing by date stamping the cover letter of this extra copy and returning it to the messenger who delivered this filing.

Sincerely,

Samuel M. Sipe, Jr.
Samuel M. Sipe, Jr.

cc: Joseph H. Dettmar, Office of Proceedings
Stephen C. Skubel
Michael Glennon
Michael Rosenthal
Louise A Rinn
Parties on Service List

WASHINGTON

PHOENIX

LOS ANGELES

LONDON

BRUSSELS

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

United States Department of Energy
and
United States Department of Defense

v.

Baltimore & Ohio Railroad Company, et al.

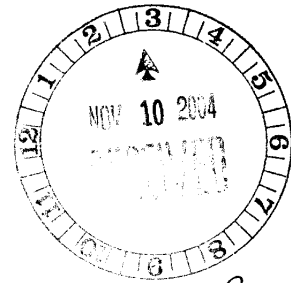
United States Department of Energy
and
United States Department of Defense

v.

Aberdeen & Rockfish Railroad Co., et al.

ICC Docket No. 38302S

ICC Docket No. 38376S



**ENTERED
Office of Proceedings**

NOV 10 2004

**Part of
Public Record**

212502

- 212503

**MOTION OF CSX TRANSPORTATION, INC. FOR EXTENSION OF TIME
TO SUBMIT COMMENTS ON THE PROPOSED SETTLEMENT AGREEMENT**

CSX Transportation, Inc. (CSXT), a defendant in the captioned proceedings, respectfully requests that the Board extend by 14 days, from December 6, 2004 until December 20, 2004, the due date for filing comments on the Proposed Settlement Agreement between Union Pacific Railroad Company ("UP") and the United States Departments of Energy and Defense ("the Government") in the captioned proceedings. The brief extension is needed to coordinate the views of the various departments within CSX that have an interest in the matters encompassed in the proposed Settlement Agreement. Counsel for CXST have communicated with counsel for UP regarding the requested extension. Counsel for UP has consulted with counsel for

Government and CSXT understands that UP and the Government do not oppose the request as long as the reply period is extended until January 14, 2005.¹

In support of the requested extension, CSXT states as follows:

1. These cases have been pending for over 20 years. For the past eight years they have been inactive pending settlement discussions between UP and the Government. Negotiations between UP and the Government leading to the proposed Settlement Agreement have been protracted.
2. In their Joint Motion filed with the Board on September 15, 2004, UP and the Government requested that the Board provide interested parties with notice and an opportunity to comment on their request for Board approval of the Settlement Agreement. The settling parties proposed that comments on the Settlement Agreement be due 45 days after publication of notice of the parties' request in the Federal Register, with the settling parties' rebuttal in support of their request due 30 days thereafter.
3. In its November 5, 2004 decision providing notice of the proposed Settlement Agreement, the Board gave commenting parties a period of 31 days to file comments, rather than 45 days as requested by the settling parties. The comment period established by the Board encompasses the Thanksgiving holiday, which effectively reduces the work days available to prepare comments by a minimum of two.
4. The proposed Settlement Agreement between UP and the Government is the first significant public development in this protracted dispute in the last eight years. The Government

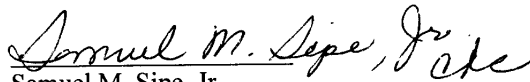
¹ If the Board grants the requested extension, it would need to establish a new due date for replies by the settling parties. If comments were filed on December 20 and the Board were to adhere to the 14-day reply period established in the Board's November 5, 2004 period, UP and the Government would face the difficult task of preparing reply comments over the Christmas and New Years holidays. Under these circumstances, CSXT agrees with UP and the Government that an extension of the reply period until January 14 would be appropriate.

apparently hopes that its bilateral agreement with UP will "serve as a model for settlements that Government will seek with the remaining railroad defendants." The Settlement Agreement has addressed commercial, operating and safety issues as they impact the Government and UP, but much of this traffic is handled in interline service. The Settlement Agreement thus has major implications for the remaining defendants. CSXT is undertaking a multi-disciplinary examination of the Settlement Agreement and needs sufficient time to coordinate the views of the various individuals who have been asked to review it before it submits comments. The public interest will be served by giving interested parties sufficient time to prepare comments that address the substance of the proposed Settlement Agreement.

5. Particularly in light of the extended period of time that the litigation and the settlement discussions have been pending, no party will be prejudiced by a grant of the modest 14-day extension proposed herein.

For the foregoing reasons, CSXT respectfully requests that the Board extend by 14 days, from December 6, 2004 until December 20, 2004, the due date for filing comments on the Proposed Settlement Agreement with a corresponding extension of time for replies to January 14, 2005.

Respectfully submitted,



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November 10, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of November 2004 served a copy of the foregoing on:

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